

His election was contested, on the ground that his actual and legal residence was in the county, and not in the city, and that, therefore, as Commodore Barney received a larger number of votes than any other inhabitant in the city, he was entitled to represent that part of the district, by force of the laws of Maryland. The question, therefore, was, whether the Legislature of a State could superadd to the qualifications required by the Constitution of the United States, the condition that a Representative should reside in the district for which he was elected. No one doubted the authority of the Legislature to designate districts, within which the voters were to elect a Representative; but it was held that the voters in that district might elect a Representative from any part of the State, notwithstanding the law of Maryland required the candidate to be a resident of the district, upon the ground that the statute of Maryland could not require any qualification other than that required by the Constitution of the United States. To apply this to the case before us: The Constitution of the United States requires that the Senator shall come "from the State." Any man within the State is within this qualification. If this Convention, or the Legislature, should require a residence in a particular part of the State—for instance, on one shore or on the other, in one gubernatorial district or another—this would be a qualification not required by the Constitution of the United States, and of course an addition to it. To show this clearly, let us suppose, than in despite of the act of this Convention, or any statute in pursuance to our action, a future Legislature should elect a Senator not residing within the prescribed district, and a candidate, residing within that district, who had received a smaller number of votes, or any other person who should be dissatisfied, should contest the election before the Senate of the United States, who are the sole judges in this matter, to what would they appeal as the law regulating the qualifications of the claimant? In my opinion, they would look alone to the Constitution of the United States, and finding there no other qualification required than a residence in "the State," that is, any part of the State, they would say he was eligible.

It had been said by the gentleman from Prince George's (Mr. Bowie) that the Legislature, being the creature of the Convention, would be controlled by its action. Now, aside from the abstract impropriety of our adopting a provision, as organic law, which is in violation of a law superior to it, and which we are bound to obey, I have to answer this suggestion (said Mr. C.) first, by saying that as to this matter, the Legislature is *not* the creature of this Convention. It derives no power or authority whatever on this subject from this Convention, or from the people who gave us our authority. It is on the contrary, in this respect, exclusively the creature of the Constitution of the United States, or rather of the people of the United States, by whom that constitution was framed. Again, the members of the Legislature will be bound,

by the solemnities of an oath, to respect the Constitution of the United States as the *supreme law* of this State, as it is of all the States, and if any provisions in that law shall conflict with, and oppose our code, it will repeal the enactment of any State authority and render it void and of no effect, of no effect to impose any political or any moral obligation on members of the Legislature to respect it. I have therefore, sir, (said Mr. C.) come to the conclusion that we have no authority to adopt the proposition now before the Convention.

Mr. SOLLERS inquired if the act of 1810 was null and void?

Mr. DORSEY. I have not a moment's hesitation in saying it is unconstitutional and void.

Mr. CHAMBERS entertained the same opinion. The Legislature certainly might prescribe a rule as expedient and proper for their own action. They might select the candidate from any part of the State, and they might, as they doubtless would, distribute the appointments to different portions of the State, but we have no power to coerce them.

Mr. BRENT, (of Baltimore city,) inquired if the people had not the right to instruct the Legislature to pass a law which would be in conformity to the Constitution of the United States.

Mr. CHAMBERS. Undoubtedly. But to superadd to the qualifications which are required by that constitution, would be in conflict with it. For instance, if the constitution should say that a man twenty-one years of age might be a Senator, and we were to provide that a man must be thirty years of age before he could be a Senator, clearly this provision would conflict with the constitution. So in the case of a property qualification, the constitution requires none; if, therefore, we were to provide a property qualification as necessary to entitle a man to be elected a Senator, such a provision would be in collision with the constitution. The form of expression does not make the injunction less imperative, and in legal construction, and by common sense interpretation, means that the qualifications enumerated, and *none other*, shall be required. I have always regarded the act of 1810 as an expression by the Legislature of a just sense and feeling of expediency and propriety, and the disposition to conform to it, to be based upon the acknowledged justice and equity of such a distribution. Mr. C. read from the report of contested elections several passages to sustain his views.

Mr. JENIFER was much gratified to hear the remarks of the gentleman from Kent. He could not see how any other construction could be put upon the Constitution of the United States. The third section of the first article was:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years; and each Senator shall have one vote."

No other mode of election could be fixed upon by the Convention than by the Legislature of the State, because that was expressly provided for in the constitution. After providing for the